

State of Utah

Title and Escrow Commission Meeting

Meeting Information

Date: **November 10, 2008**

Time: 9am

Place: **Beehive Room
East Building**

Members

Commission Members

Chair, Canyon W. Anderson, Davis Cnty	David M. Lattin, Salt Lake Cnty	Glen W. Roberts, Utah Cnty
Houghton, Tooele Cnty	Garry M. Goodsell, Iron Cnty	Jerry M.

Department Staff

John E. "Mickey" Braun, Jr. <i>Ass't Commissioner</i>	Perri Babalis <i>AG Legal Counsel</i>	Mark Kleinfeld <i>Admin. Law Judge</i>	Suzette Green-Wright <i>MC Director</i>
Tammy Greening <i>MC Examiner</i>	Sheila Curtis <i>MC Examiner</i>	Sandra Halladay <i>MC Examiner</i>	Jilene Whitby <i>PIO/Recorder</i>

MINUTES

Welcome and Introductions / Canyon Anderson, Chair

General Session - Approx. 9:30am (Open to the Public)

- **Adopt Minutes of Previous Meeting**
Jerry referred to the third bullet on the second page, "Mountain View Title & Escrow, Inc.," second to the last sentence should show that he was the one in opposition to the motion. Garry then made a **motion** to adopt the minutes with this change. David seconded the motion and the vote was unanimous.
- **Concur with Licensee Report**
Garry made a **motion** to accept the report, Jerry seconded it and the vote was unanimous.
- **Number of Cases Open & Closed**
 - Canyon noted that the period from May through October showed very few consumer complaints.
 - Glen suggested put all of the rules under the "Statutory Violation" column. Mickey agreed.
 - Mark explained that once an ecase number is given to a case the file on that case is given to Mr. Lemmon who reviews it and decides if more evidence is needed or not. Suzette makes her recommendation. Mickey noted that only those cases where we have enough proof that a law has been violated are sent to the prosecutor. He then decides if it is a case that he can or cannot prosecute. If he thinks it cannot be prosecuted, then the case is dropped.
 - Jerry noted that the name of a title company had been mentioned on the report. Mickey said it would be removed.
 - Glen **moved** to approve, Garry seconded it and the vote was unanimous.
- **Administrative Proceedings Action**
 - Mark – no new matters.

- Canyon called for a vote on the Atlas matter that was unresolved from last month's meeting. Garry made a **motion** to change the penalty from \$15,000 to \$2,500. The rest of the stipulation should remain the same. Jerry seconded it and the vote was unanimous.
- **Old Business**
 - **Review Minimum Escrow Fee Rule**
 - Canyon suggested giving it a number. Almost unanimously he has received comments approving a minimum escrow charge rule. He had also received comments to the effect that a \$210 fee for \$0-\$180,000 would be a reduction in what they were charging. He suggested \$200.
 - Glen said he was fine with the current proposal. There are closings he can do at \$150. He did not want to make exceptions to the rule. Garry agreed. He noted that Idaho had a base fee of \$50 plus \$3 per \$1,000 value of property. Jeff said it can be negotiated to no lower than \$500. Jerry said that many were concerned that the lower level it is too low. We don't find out that a person is a first time buyer until the closing. Homes in his area are being purchased by investors not first time buyers. He liked Idaho's fee schedule. He would like to see the bottom tier fee raised but is happy with what they have done.
 - David preferred to see it the way we have it. Glen said that there was a concern that the tier system may become a defacto rate.
 - Glen noted the issue of charging too much and losing E&O carrier?
 - Garry said he was happy with the tiers as they were now.
 - Canyon said that the rule was ready to go to hearing.
 - **Title Trust Accounts Rule R592-12**
 - Mickey had received no comments on this rule. He had not talked with bankers about it yet. Canyon said that the repurchase agreement offered the same security. Currently all but title trust accounts are restricted from using sweep accounts.
 - Canyon also expressed interest in automatic reporting. Put "Good Funds" on next agenda. David Moore said they had written a Good Funds law through ALTA. Other states do not go as far as we do in defining what Good Funds are.
 - **Review Changes to R592-10 & 11**
 - Mickey said he had received no input.
 - R592-10 (currently R590-187) talks about the assessment. It provides reporting requirements. The numbering of the rule is changed from 590 to 592. Canyon asked why "title insurer" had been taken from the title of the rule and section headings for 6 and 7. Mickey will correct this.
 - Jerry asked if the rule included escrow offices. Mickey said it did.
 - Is there any way to record a separate LLC that is doing a closing for you? Glen seemed to think they were included in the definition of a branch office. Canyon asked if "branch office" should be defined. If you have a licensed title or escrow officer somewhere then it is an office. Mickey noted that if a title agent is sharing commissions with an LLC then they would be under the purview of the department. In that case they should have a license to receive premiums. David asked if a licensed escrow officer and independent notary designated by agency would be considered a branch office. Canyon said they would be a branch office.

- Mickey will make additional changes to the rule and bring it back to the Commission next month.
- Jerry wondered why the report in the rule was due February 30 instead of April like the others. All agreed it should be due in April. Mickey said he would make the change.
- Cort asked if an employee did searches in another county and does not come into your office would their work location be considered a branch office? Mickey said yes.
- Mickey said R592-11 (currently R590-136) simplifies the reporting requirements and requires filings be made electronically.
 - Canyon asked that we go back to the old requirements and delete the new ones and retain the prior language on what we are expected to file. All agreed.
 - Jerry noted that lines 107 and 127 contradict one another as to confidentiality and public information. Reports will need to be done electronically. Canyon was okay with 127 and suggested deleting "Controlled Business Report" from 108. Mickey noted that The Annual Report Transmittal form would also need to be changed.
 - Jerry asked who we were trying to designate on line 36? Mickey said the reason for this was that individual title producers do not think they have to report.
- **Review Lot Reservation Bulletin**
 - Canyon said the department was working on a lot reservation bulletin that would require accounts be kept on separate properties and would define what would be the tie to an insurance product. He welcomed industry's input.
 - Garry asked if there would be a fee? Mickey said that if the Minimum Fee Rule was adopted it would eliminate all other fees. Glen said if there is a closing there is a fee and if not there is no fee. Mickey agreed. The law does not allow escrow without a title insurance transaction.
 - Jeff recommend including a time frame.
 - Cort suggested using the wording in a CPL. Mickey agreed.
- **Status of R592-6**

Glen made a **motion** to put R592-6 into effect as of today, November 10, 2008. Garry seconded it and the vote was unanimous. Garry wanted to have a notice sent out to the industry. Glen said it is industry's responsibility to check out the web.
- **Fast Web / Mickey**
 - The department has received emails asking if Fast-Web and other such products were acceptable under R592-6. Canyon said the interpretation of the rule should go to the department.
 - The list in R592-6-4.(18) is specific to those things they can't provide. Glen noted that even if something is not on this list it can be a violation. We can't list every violation in a rule. David summarized: if one searches by lender it is a "leads to a loan," which is a violation. But if one searches by county it is not a violation since this information is already provided.
- **New Business**
 - **Dual Licensing** – take off agenda
 - **Increase Agency Licensing Fee to \$100 to Eliminate \$25 Agency Filing Fee**

Mickey said that currently the department collects \$25 for each filing. He

- recommended increasing the agency licensing fee from \$75 to \$100 to eliminate this transaction. The Commission thought it made sense.
- **Title Insurance Recovery Education, and Research Fund**
We missed our goal of collecting \$350,000. We can use 75% of the dollar amount over \$250,000. Mickey requested the use of this fund to send three title examiners to ULTA's meeting. Canyon approved it. He asked Mickey to let them know how much was collected by the assessment. Mickey said next year they may have to change the assessment to cover needs.
 - **Preferred Meeting place, day and time for 2009**
The Commission decided to keep the same meeting schedule in 2009. They will meet on the second Monday of the month at 9:00am but move to the Copper Room in the East Building.
 - **Other Business from Committee Members**
 - **Garry** asked how to submit a complaint to the Commission? Mickey said by email with documentation.
 - **Mickey** announced that one of the department's bills would be discussed in interim meeting next week. That bill deletes the license requirement for a combined search and escrow line of authority. These lines are issued as separate lines of authority. It also makes changes to the wording related to the 1% account. Currently the law says the account must be maintained and title agencies must report to the department when money is taken out of it. The change will allow the account to be maintained until it is gone and delete any reporting requirement. The bill is on the web now.
 - **Clayton** asked if the meeting place would be changed in February due to the legislature? This will be considered in January.
 - **Adjourned - Noon**
 - **Next Meeting: Dec. 8, 2008, 9am**

2009 Meetings